

Appl. No. 10/780,267
Docket No. 9176R
Amdt. dated September 25, 2006
Reply to Office Action mailed on July 25, 2006
Customer No. 27752

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REMARKS

Response to Restriction Requirement

The Office Action has required, under 35 USC §121, election of a single disclosed invention for prosecution on the merits. Pursuant to this requirement, Applicants hereby elect to prosecute the invention designated in the Office Action as Invention I. Claims 1-5 and 21-29 are drawn to this invention. This election is made with traverse.

Traversal of Restriction Requirement

Applicants respectfully traverse the restriction requirement. Applicants assert that the requirement has been improperly made, as the Office Action does not show the inventions defined by the groups are independent and distinct.

The Office Action cites MPEP §806.05(h), which states "an invention can be shown to be distinct if ... (2) the product as claimed can be used in a materially different process of using that product." The Office Action supports this by stating "the composition as claimed can be used for the treatment of materially different diseases or disorders. For example, the composition can be used for the treatment of dryness of the skin as well as for the treatment of hyperpigmentation of the skin."

Applicants respectfully assert that the treatment of materially different *diseases* does not meet the requirement that the product can be used in a materially different *process*. Rather, the process for using the composition to regulate a variety of conditions, including dryness of the skin and hyperpigmentation, comprises the step of applying the claimed composition to the skin of a mammal in need of treatment. In addition, Applicants refer to MPEP § 802.01, which states "two or more inventions are related (i.e., not independent) if they are disclosed as connected in at least one of design (e.g., structure or method of manufacture), operation (e.g., function or method of use), or effect." Applicants assert that the claimed composition and methods of use are connected in operation, in that the methods of use recite application of the claimed composition.

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Without a sufficient showing of independence, or relatedness with proper showing of distinctness, the restriction requirement is improper. Applicants respectfully request that the restriction requirement be withdrawn.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By


Signature

Date: September 25, 2006
Customer No. 27752

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